

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 54 - SB 238

February 13, 2023

SUMMARY OF BILL AS AMENDED (003922): Makes various changes to the *Tennessee Securities Act of 1980*. Expands the definition of *investment advisor* to include a financial planner or any person who provides financially related services or advice to others as part of a business or for oneself in exchange for compensation.

Removes the requirement for an issuer to file a notice of transactions related to the issuance of a security with the Commissioner of Commerce and Insurance (DCI). Authorizes late filing fees when any amendment to notices filed regarding the name change of covered securities are filed more than 30 days after the date of the first sale.

Effective January 1, 2024; requires DCI to require an agent or investment advisor representative applicant, at the applicant's expense, to submit a set of fingerprints for the purpose of obtaining a fingerprint-based criminal history check from the Tennessee Bureau of Investigation (TBI) and the Federal Bureau of Investigation.

Makes changes to qualifying criteria for certain securities to be eligible for exemption from registration with DCI. Updates eligibility requirements and the effective dates for registering as an issuer-dealer. Requires all paperwork disclosed to the Commissioner in the course of an examination to be confidential.

Authorizes the Commissioner to enter into an order of restitution, disgorgement, including interest and legal interest, or rescission, directed to a person who has violated provisions of the Act. Authorizes the Commissioner to place a penalty or remedy of restitution, disgorgement, or rescission on persons who have violated the Act.

Provides certain rules and authority to DCI regarding broker-dealers and agents seeking expungement of customer dispute information from the Central Registration Depository system.

FISCAL IMPACT OF BILL AS AMENDED:

**Increase State Expenditures - \$70,900/FY23-24
\$69,200/FY24-25 and Subsequent Years**

Decrease State Revenue - \$50,000/FY23-24 and Subsequent Years

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The Governor's proposed budget for FY23-24 recognizes, on page B-308, a recurring increase in state expenditures of \$73,800, and a recurring decrease in revenue of \$50,000 on page A-33.

Assumptions for the bill as amended:

- Based on information provided by DCI the provisions of this legislation cannot be handled within existing resources and will require one full time position titled Securities Examiner 2 for processing additional fingerprints, processing requests for expungements, processing potential orders of restitution, disgorgement, or rescission, and amending its processing of assessing late filing fees.
- There will be a one-time increase in state expenditure of \$1,700 for the purchase of software technology for the additional authorities given under the proposed legislation.
- There will be a recurring increase in state expenditures of \$69,249 [(\$53,100 salary + \$16,149 benefits) x 1 Securities Examiner 2 position] in FY23-24 subsequent years.
- The filing fee for a notice of transactions related to the issuance of a security is \$500.
- According to DCI approximately 100 notices will not need to be filed which will result in a recurring decrease in state revenue of \$50,000 (100 x \$500) in FY23-24 and subsequent years.
- In FY23-24 the increase in state expenditures is estimated to be \$70,949 (\$69,249 positions + \$1,700 technology).
- There will be a recurring increase in state expenditures of \$69,249 in FY24-25 and subsequent years.
- The TBI will be able to handle the fingerprint comparisons and submissions within existing resources as part of current duties without any increase to state expenditures.

IMPACT TO COMMERCE OF BILL AS AMENDED:

Decrease Business Expenditures - \$50,000/FY23-24 and Subsequent Years

Other Fiscal Impact – The cost of registering and fingerprint submissions by applicants will be paid primarily by businesses or individuals. Due to unknown factors the increase in business expenditures cannot be reasonably determined.

Assumptions for the bill as amended:

- Removing the \$500 filing fee for such notices will reduce business expenditures by \$50,000 in FY23-24 and subsequent years.
- Requiring an agent or investment advisor representative applicant to submit a set of fingerprints to the Tennessee Bureau of Investigation will increase business expenditures for individuals.
- The Tennessee Bureau of Investigation offers the general public and qualified organizations and its applicants criminal background checks through its contractor for a fee of \$37.15

- The number of individuals that will now be required to submit fingerprints is unknown; therefore, the increase in business expenditures for individuals or business cannot be reasonably determined.
- No significant impact to jobs in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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